

No. 14457

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United States  
Court of Appeals  
for the Ninth Circuit

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TAKESHI TAMADA,

Appellant.

vs.

JOHN FOSTER DULLES, as Secretary of State,

Appellee.

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Transcript of Record

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Appeal from the United States District Court for the  
Southern District of California,  
Central Division.

FILED

DEC 20 1954

PAUL P. O'BRIEN,



No. 14457

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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## NAMES AND ADDRESSES OF ATTORNEYS

For Appellant:

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Los Angeles 12, Calif.

For Appellee:

LAUGHLIN E. WATERS,  
United States Attorney;  
ROBERT K. GREAN,  
Assistant U. S. Attorney,  
600 Federal Bldg.,  
Los Angeles 12, Calif.





In the United States District Court, Southern  
District of California, Central Division

No. 10,455 (D)

TAKESHI TAMADA,

Plaintiff,

vs.

DEAN ACHESON, as Secretary of State,

Defendant.

COMPLAINT UNDER SECTION 503, UNITED  
STATES NATIONALITY ACT

Cause of Action in Behalf of  
Plaintiff Takeshi Tamada

I.

Plaintiff is a citizen of the United States. He was born in Honolulu, Hawaii, on September 5, 1924. He is a permanent resident of Los Angeles, California, and within this judicial district; and he claims such residence as his permanent residence.

II.

The defendant is the Secretary of State of the Government of the United States. As such he is the head of said Department.

III.

This Court has jurisdiction herein by virtue of Title 8, United States Code, Section 903 (Section 503, United States Nationality Act). [2\*]

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\*Page numbering appearing at foot of page of original Certified Transcript of Record.

## IV.

In August, 1933, the plaintiff left the United States for Japan to reside there temporarily.

## V.

Prior to July 9, 1948, the plaintiff applied for a passport at the office of the United States Consul in Japan, and applied to be registered as a citizen of the United States. Thereupon said United States Consul as agent of the defendant as Secretary of State, and as an officer of said State Department, denied plaintiff's claim to United States citizenship and his rights as a citizen and as a national of the United States by refusing and neglecting to issue to plaintiff a passport as requested and applied for by said plaintiff; and/or refusing to document the plaintiff as a United States citizen; and said Consul has continued to neglect and delay up to the present time, issuing a passport to the plaintiff as applied for by him, aforesaid, and/or in refusing to document the plaintiff as a United States citizen.

## VI.

Said Consul thereupon, and on or about July 29, 1949, issued to the plaintiff a "Certificate of Loss of Nationality of the United States," which said Certificate was approved by the Department of State on April 22, 1949.

## VII.

In December, 1944, to February, 1946, the plaintiff served in the Japanese Army. His service in

the Japanese Army was due to the Japanese Conscription law, and was the result of coercion and was not the plaintiff's free and voluntary act.

In addition, the plaintiff voted in the Japanese general elections in 1946. His so voting was the result of mistake, confusion and misunderstanding; and was not his free and voluntary act.

In 1946 Japan was not a foreign state within the meaning [3] and intent of Section 401 (e) of the United States Nationality Act, 8 U.S. Code (Section 801 (e)).

### VIII.

The plaintiff Takeshi Tamada is joined as a plaintiff in this action because he and all the plaintiffs herein assert rights to relief arising out of the same series of transactions or occurrences, and questions of fact and law common to all of the plaintiffs will arise in this action.

Wherefore, the plaintiffs, and each of them, pray for relief against the defendant as follows:

That in those instances in which the plaintiffs have sought registration and/or documentation as United States citizens, that the defendant be ordered to document and/or register said plaintiffs as United States citizens; that in those instances in which the plaintiffs have applied for passports the defendant be ordered to issue passports to the plaintiffs as citizens of the United States; and that the plaintiffs, and each of them, be adjudged to be

citizens of the United States; and plaintiffs further pray for such other relief as may be proper herein.

A. L. WIRIN &  
FRED OKRAND,

By /s/ A. L. WIRIN,  
Attorneys for Plaintiff.

[Endorsed]: Filed October 18, 1949. [4]

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[Title of District Court and Cause.]

### ANSWER

Comes Now the defendant Dean Acheson, as Secretary of State, through his attorneys, Ernest A. Tolin, United States Attorney for the Southern District of California, and Clyde C. Downing and Arline Martin, Assistant United States Attorneys for the Southern District of California, and in answer to plaintiff's complaint herein admits, denies and alleges as follows:

#### I.

Referring to the first averment of Paragraph I of said complaint, denies that plaintiff is a citizen of the United States.

Referring to the remainder of the averments of Paragraph I of said complaint, defendant has no knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, and on that ground denies the remainder of the allegations in said Paragraph I.

II.

Admits the allegations contained in Paragraph II of said complaint.

III.

Admits the allegations contained in Paragraph III of said complaint. [5]

IV.

Defendant has no knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph IV of said complaint, and on that ground denies said allegations.

V.

Defendant has no knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph V of said complaint, and on that ground denies said allegations.

VI.

Defendant has no knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph VI of said complaint, and on that ground denies said allegations.

VII.

Referring to the allegations contained in Paragraph VII of said complaint, defendant admits that in December, 1944, to February, 1946, the plaintiff served in the Japanese army, and admits that the plaintiff voted in the Japanese general elections in 1946, and alleges plaintiff voted in 1947 & 1948. Re-

ferring to each and every other allegation contained in said Paragraph VII, defendant has no knowledge or information to base a belief, and on that ground denies said allegations.

### VIII.

The allegations contained in Paragraph VIII of said complaint are rendered moot by reason of the Stipulation and Order for Severance of this plaintiff from all other plaintiffs in the action for all purposes.

And for a Further Separate and Second Defense Defendant Alleges:

### I.

The complaint of plaintiff fails to state a claim upon which relief can be granted.

Wherefore, defendant prays for a judgment dismissing said complaint and denying the relief paid for therein.

Dated this 19th of December, 1949.

ERNEST A. TOLIN,

United States Attorney;

CLYDE C. DOWNING,

Assistant U. S. Attorney;

By /s/ ARLINE MARTIN,

Assistant U. S. Attorney,

Attorneys for Defendant.

Affidavit of Service by Mail attached.

[Endorsed]: Filed December 19, 1949. [6]



[Title of District Court and Cause.]

STIPULATION FOR SUBSTITUTION OF  
JOHN FOSTER DULLES, AS SECRETARY  
OF STATE, AS PARTY DEFENDANT

It Is Hereby Stipulated, pursuant to the provisions of Rule 25(d), Federal Rules of Civil Procedure, that John Foster Dulles, as Secretary of State, be substituted as party defendant in the above-entitled case.

Dated: 12 February, 1953.

So Ordered June 30, 1953.

/s/ WM. M. BYRNE,  
Judge, United States  
District Court.

WIRIN, RISSMAN & OKRAND,  
By /s/ FRED OKRAND,  
Attorneys for Plaintiff.

WALTER S. BINNS,  
United States Attorney;  
CLYDE C. DOWNING,  
Assistant U. S. Attorney,  
Chief, Civil Division;

By /s/ ARLINE MARTIN,  
Assistant U. S. Attorney,  
Attorneys for Defendant.

[Endorsed]: Filed June 30, 1953. [8]

[Title of District Court and Cause.]

MINUTES OF THE COURT—MARCH 19, 1954

Proceedings: For trial.

On motion of Attorney Grean, It Is Ordered that the Answer at page 2, paragraph 7, line 14, be amended by interlineation to read “and alleges plaintiff voted in 1947, 1948.”

K. Iwanaga is sworn as interpreter of the Japanese language.

Taheshi Tamada, plaintiff, is called, sworn, and testifies in his own behalf. At 10:30 a.m., court recesses.

At 11:05 a.m., court reconvenes herein, and all being present as before, Plaintiff resumes testimony in his own behalf.

Plf's. Ex. 1, marked for ident., is admitted in evidence.

On motion of plaintiff, It Is Ordered that all exhibits in Case No. 1232-ND Civil, Matsuye vs. Dulles, be admitted in evidence, by reference.

Exhibits 2 and 3 are admitted in evidence.

At noon court recesses. At 2:05 p.m., court reconvenes herein, and all being present as before, plaintiff resumes testimony in his own behalf.

Deft's. Ex. A, B, and C are marked for ident., and Ex. C is admitted in evidence. Deft's Ex. D and E are marked for ident.

At 3:05 p.m., court recesses.

At 3:15 p.m., court reconvenes herein, and all being present as before, Plaintiff resumes testimony in his own behalf.



Deft's Ex. A and D are admitted in evidence.

Both sides rest.

Counsel argue.

Court makes a statement and Orders Judgment for defendant; Attorney Grean to prepare judgment and findings accordingly.

Filed list of exhibits.

EDMUND L. SMITH,

Clerk;

By /s/ EDW. F. DREW,

Deputy Clerk. [9]

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[Title of District Court and Cause.]

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

The above cause having come on regularly for trial on March 19, 1954, before the Honorable William M. Byrne, Judge Presiding, without a jury, the plaintiff appearing by his attorneys, Wirin, Rissman & Okrand by Hugh R. Manes, and the defendant appearing by his attorneys, Laughlin E. Waters, United States Attorney, and Robert K. Grean, Assistant United States Attorney, by Robert K. Grean, and evidence having been introduced on behalf of the plaintiff and the defendant, and the Court having considered the same, and having heard the arguments of counsel, and being fully advised in the premises, now makes the following Findings of Fact and Conclusions of Law:

## Findings of Fact

## I.

The plaintiff, Takeshi Tamada, is the son of Japanese born parents. He was born in Honolulu, Hawaii, September 5, 1924, and claims Los Angeles, California, within this judicial district as his permanent residence. [10]

## II.

The defendant, John Foster Dulles, is the Secretary of State of the Government of the United States, and as such, is the head of the State Department.

## III.

In the latter part of 1948 or in early 1949, plaintiff first went to the American Consul to apply for a passport to return to the United States as a United States citizen. His application was denied, and instead, the Consulate issued, and the Department of State, on November 1, 1948, approved, a Certificate of the Loss of Nationality of the United States by the plaintiff that he had expatriated himself under the provisions of Section 401(c) of the Nationality Act of 1940 by serving in the Japanese Army from December 1, 1944, to February 17, 1946.

## IV.

Plaintiff acquired Japanese nationality at birth, and his name was entered in his father's Family Register on December 2, 1924.

## V.

Plaintiff journeyed to Japan in August, 1933, ac-

accompanied by both parents, one older brother, two younger sisters and one younger brother. His older brother, mother and father died in Japan.

## VI.

In October, 1941, plaintiff became employed at the Naval Arsenal at Hiroshima, Japan, making airplane parts, where he was so employed until December of 1944. His purpose in working at the Naval Arsenal was to aid his family's financial condition.

## VII.

In December of 1944, plaintiff entered and served in the Japanese Army, where he served to February, 1946. He entered the Army as a second class private and after basic training at Hiroshima, was transferred to China where he took and passed an examination to enter the Kempetai, the Japanese Military Police. [11]

## VIII.

His training in the Kempetai taught him how to capture a prisoner, how to follow suspects, how to search suspects, how to investigate crime and how to use firearms.

## IX.

Plaintiff was stationed at Nanking where he supervised actions of other soldiers transacting business with Chinese, checked on soldiers who were absent without leave and watched for the smuggling of arms.

## X.

Plaintiff did not protest his induction into the

Army and did not protest his service in the Kempetai since he was told that if he refused to go to Military Police School, he would be transferred to another branch of the Army.

#### XI.

When describing his military service to the Vice-Consulate in furtherance of his application for passport, plaintiff concealed his service in the Kempetai and denied being a member of the Kempetai when officially questioned with regard thereto.

#### XII.

Plaintiff voted in Japanese elections in Japan in 1946, 1947 and 1948.

#### XIII.

In three separate statements to the American Consul, both written and oral, plaintiff stated under oath that he voted in April of 1946 only and did not vote in 1947 and 1948.

#### XIV.

Plaintiff voted April 5, 20, 25 and 30, in 1947: and on October 5 and November 15, in 1948.

#### XV.

Plaintiff's service in the Japanese Army while possessing Japanese nationality was his free and voluntary act.

#### XVI.

Prior to voting, plaintiff did not make a claim to citizenship of [12] the United States, nor did he request exemption from voting.

XVII.

Plaintiff's voting in 1946, 1947 and 1948 in the Japanese General Elections was in each instance his free and voluntary act.

XVIII.

The elections held in Japan in April of 1946, in April of 1947, and in October and November of 1948, were political elections within the meaning of Section 401(e) of the Nationality Act of 1940 (8 U.S.C. 801(e)).

XIX.

That Japan in 1947 and 1948 was a foreign state within the meaning of Section 401(e) of the Nationality Act of 1940 (8 U.S.C. 801(e)).

Conclusions of Law

I.

This Court has jurisdiction under the provisions of the Nationality Act of 1940, Section 503 (8 U.S.C. 903), to hear and to make a judicial determination as to whether or not the plaintiff lost his nationality by expatriating acts of entering and serving in the Army of Japan while possessing Japanese nationality, and by voting in the Japanese elections of April, 1946 and 1947 and October and November of 1948.

II.

Prior to the outbreak of war with Japan on December 7, 1941, Japan was and continuously until the present time has been a foreign state within the

meaning and intent of Section 401(e) of the United States Nationality Act of 1940 (8 U.S.C. 801(e)).

### III.

The elections held in Japan in April, 1946 and 1947 and October and November of 1948, were political elections within the meaning and intent of Section 401(e) of the United States Nationality Act of 1940 (8 U.S.C. 801(e)).

### IV.

That Section 402 of the Nationality Act of 1940 (8 U.S.C. 802), raises a presumption of expatriation under Subsection (c) of Section 401 of the [13] Nationality Act (8 U.S.C. 801(c)), when a national of the United States remains for six months or longer within any foreign state of which he or either of his parents shall have been a national according to the laws of such foreign state and the plaintiff has not overcome said presumption.

### V.

Plaintiff's voting in the Japanese elections of April, 1946 and 1947 and October and November of 1948, was his free and voluntary act within the meaning and intent of Section 401(e) of the Nationality Act of 1940 (8 U.S.C. 801(e)).

### VI.

The plaintiff, a citizen of the United States by reason of birth in the United States, lost his nationality by voluntary service in the Armed Forces of Japan while possessing Japanese nationality and by voting in political elections in Japan, and from the time of



committing said expatriating acts has not been and is not now a citizen of the United States.

Let judgment in favor of the defendant and against the plaintiff herein be entered accordingly.

Dated: This 19th day of April, 1954.

/s/ W. M. BYRNE,

Judge, U. S. District Court.

[Endorsed]: Filed April 19, 1954. [14]

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In the United States District Court in and for  
the Southern District of California, Central  
Division

No. 10455-WB

TAKESHI TAMADA,

Plaintiff,

vs.

JOHN FOSTER DULLES,

Defendant.

### JUDGMENT

The above cause having come on regularly for trial on March 19, 1954, before the Honorable William M. Byrne, Judge Presiding, without a jury, the plaintiff appearing by his attorneys, Wirin, Rissman & Okrand by Hugh R. Manes, and the defendant appearing by his attorneys, Laughlin E. Waters, United States Attorney, and Robert K. Grean, Assistant

United States Attorney, by Robert K. Grean, and evidence having been introduced on behalf of the plaintiff and the defendant, and the Court having considered the same, and having heard the arguments of counsel, and being fully advised in the premises, and having heretofore made and filed its Findings of Fact and Conclusions of Law, and having ordered that a Judgment be entered in accordance therewith, Now, Therefore, It Is Hereby Ordered, Adjudged and Decreed as Follows:

I.

That the plaintiff, Takeshi Tamada, having acquired United States nationality by birth at Waimalu, Honolulu, on September 5, 1924, lost United States [15] nationality by voluntarily serving in the Japanese Army while possessing Japanese nationality, and by voluntarily voting in political elections in Japan, and is not now, nor has he been, a citizen and national of the United States of America since said service and voting.

II.

It Is Further Ordered that plaintiff's prayer for a Judgment and for a Decree adjudging that he is a citizen and/or national of the United States is hereby denied.

III.

It Is Further Ordered that the plaintiff is not entitled to the rights and/or privileges of a national or citizen of the United States, and is not entitled to a passport in order to return to the United States,



and that the defendant shall have judgment and his costs. Costs taxed at \$20.00.

Dated: This 19th day of April, 1954.

/s/ W. M. BYRNE,  
Judge, United States  
District Court.

Affidavit of Service by Mail attached.

[Endorsed]: Filed April 19, 1954.

Docketed and entered April 19, 1954. [16]

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[Title of District Court and Cause.]

### NOTICE OF APPEAL

Notice Is Hereby Given that Takeshi Tamada, plaintiff above named, hereby appeals to the United States Court of Appeals for the Ninth Circuit from the judgment entered in this action on April 19, 1954.

Dated: This 18th day of June, 1954.

A. L. WIRIN &  
FRED OKRAND,

By /s/ FRED OKRAND,  
Attorneys for Appellant.

Affidavit of Service by Mail attached.

[Endorsed]: Filed June 18, 1954. [18]

In the United States District Court, Southern  
District of California, Central Division

No. 10455-WB (D)-Civil

TAKESHI TAMADA,

Plaintiff,

vs.

JOHN FOSTER DULLES, Secretary of State,

Defendant.

REPORTER'S TRANSCRIPT  
OF PROCEEDINGS

Appearances :

For the Plaintiff :

WIRIN, RISSMAN & OKRAND, By  
HUGH R. MANES, ESQ.

For the Defendant :

LAUGHLIN E. WATERS,  
United States Attorney; By  
ROBERT K. GREAN,  
Assistant United States Attorney.

Friday, March 19, 1954, 9:45 A.M.

The Court: The clerk will call the calendar.

The Clerk: No. 10455-WB Civil, Takeshi Tamada, v. John Foster Dulles, for trial.

Mr. Manes: Ready for the plaintiff, your Honor.

Mr. Grean: The defendant is ready, your Honor.

The Court: You may proceed.

Mr. Grean: I should like at this time to request permission to interlineate an amendment to the answer and specifically referring to it on page 2, at line 14, where it says, "and admits that the plaintiff voted in the Japanese general elections in 1946," I should like to add the words "and alleges that the plaintiff voted in 1947."

Mr. Manes: No objection, your Honor.

The Court: It will be so amended.

Mr. Grean: Thank you.

Mr. Manes: If your Honor wishes, I shall proceed.

The Court: You may proceed.

Mr. Manes: Mr. Iwanaga.

It will be necessary to use an interpreter, your Honor.

(K. Iwanaga was sworn as interpreter of the Japanese language.)

(Takeshi Tamada, the plaintiff, was duly sworn as a witness in his own behalf.) [3\*]

The Clerk: Your full name?

The Plaintiff (Through interpreter): Takeshi Tamada.

Mr. Grean: Your Honor may I have a short voir dire on the interpreter?

The Court: Yes.

Mr. Grean: Will you be sworn, please, Mr. Interpreter?

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**\*Page numbering appearing at top of page of original Reporter's Transcript of Record.**

## K. IWANAGA

called as a witness on voir dire, being first duly sworn, testified as follows:

The Clerk: Your full name, please?

The Witness: K. Iwanaga.

## Voir Dire Examination

By Mr. Grean:

Q. Mr. Iwanaga, are you related to the plaintiff or any member of his family? A. No, sir.

Q. Have you had a long acquaintanceship with the plaintiff?

A. No, sir. I have met him last Friday for the first time at the attorney's office.

Q. You did not know him before that?

A. I did not.

Q. Or any members of his family?

A. I do not.

Mr. Grean: No further questions. [4]

## TAKESHI TAMADA

the plaintiff, called as a witness in his own behalf, having been duly sworn, testified through the interpreter as follows:

## Direct Examination

By Mr. Manes:

Q. Mr. Tamada, where were you born?

A. Honolulu, Hawaii.

Q. When were you born?

A. In 1924, September 5th.

Q. And where do you live now?

(Testimony of Takeshi Tamada.)

A. 1935 Purdue Avenue.

Q. And, if permitted, do you intend to make California your permanent residence?

A. Yes, sir.

Q. And is that in Los Angeles that you live now?

A. Yes, sir.

Q. Did you ever go to Japan? A. I did.

Q. When did you go to Japan?

A. 1933, August.

Q. How old were you at the time?

A. Eight, eight years old.

Q. Did anybody accompany you to Japan?

A. My both parents, one older brother, two younger sisters and one younger brother. [5]

Q. While you were living in Hawaii, did you ever go to school? A. I did.

Q. How long did you go to school?

A. From 1931 to 1933.

Q. And was that a grammar school in Hawaii?

A. Yes, sir.

Q. For what purpose did you go to Japan?

A. My parents wanted to teach me Japanese language.

Q. Do you recall, or do you know, how long you were supposed to stay in Japan?

A. The intention was to finish the grade school and then take up agriculture course and then come back to the United States to complete agriculture course.

Q. Agricultural course?

Mr. Grean: And the rest of that answer, please?

(Testimony of Takeshi Tamada.)

A. And then return.

Q. (By Mr. Manes): And did you go to school while in Japan? A. Yes, I did.

Q. What school did you go to?

A. I finished my grade school and then went to Yoshida Agricultural School.

Q. Did you graduate from Yoshida Agricultural School? A. Yes, I did. [6]

Q. When did you graduate from that school?

A. March of 1941.

Q. And while you were in that school were you known as an American citizen by the students there, to the best of your knowledge?

Mr. Grean: Your Honor, I object to that question as calling for a conclusion of the witness.

The Court: Sustained.

Q. (By Mr. Manes): Had you ever advised anybody at school that you were an American citizen? A. I did, sir.

Q. Whom did you so advise?

A. While attending at the Yoshida Agricultural School I have spoken to Nisei that attended the school, that I was an American citizen.

Q. And with whom did you associate mostly while you were in agricultural school?

A. I was intimate with those who have come back from the United States, Nisei, they are.

Q. During your conversations with these people, with these Nisei people, what were the main topics of conversation, if you can remember?



(Testimony of Takeshi Tamada.)

Mr. Grean: Will you fix this time as to year, please, counsel?

Mr. Manes: Yes, I will. [7]

Q. During what period of time were you associating with these Nisei people while in agricultural school? A. From around 1939 to 1941.

Q. And what were the things that you discussed with the Nisei during this period of time?

Mr. Grean: I am going to object to the question as being immaterial and irrelevant, as to what he discussed with the Nisei.

The Court: Objection overruled.

Mr. Grean: If counsel desires to relate it to any particular matter.

I can't see the materiality of just whatever he might have discussed.

The Court: I imagine that it is a preliminary question.

Mr. Manes: I am sorry, your Honor. I didn't hear your statement.

The Court: I imagine it is a preliminary question. The question will be permitted.

Mr. Manes: Yes, your Honor.

A. Discussing about the recent things happening in the war from those who came back.

At that time there was an incident happening with China, and we were afraid that we may be taken in, in the army.

Mr. Grean: If the court please, if this question is permitted to stand and if this plaintiff is permitted to say [8] everything he discussed, he can

(Testimony of Takeshi Tamada.)

relate every self-serving statement that he desires pertaining to this case, or any other thing. I am going to ask that his last answer be stricken as not being responsive to the question which counsel is seeking to develop here.

The Court: Denied.

A. (Continued): We have discussed mostly our problems as citizens.

Q. (By Mr. Manes): As citizens of where?

A. An American citizen.

Q. And one of the problems you discussed then was the question of what to do about the army as American citizens, is that correct?

Mr. Grean: I object to the question as leading.

The Court: Sustained.

Q. (By Mr. Manes): After your graduation, Mr. Tamada, in March of 1941, what did you do then, if anything?

A. While I attended that school, it was only as a second-grade school, and when I finished it was elevated to a higher grade.

And I attended two years the upper grade and I was sick and I left school around May, because I was afraid that I may be worse physically and then financially I was in difficulty.

Mr. Manes: Mr. Interpreter, did you mean two years or two months? [9]

The Interpreter: Two months.

Q. (By Mr. Manes): During this period of time about March, 1941, where were you living in Japan?



(Testimony of Takeshi Tamada.)

A. While attending school up to March, I was in the dormitory of the school.

Q. And after you left the school, where did you live then?      A. And then I stayed at home.

• Q. And where was that?      A. Asa-gun.

Q. Was that in the city itself?

A. Oh, about six miles away from the city.

Q. And with whom were you living at that time?

A. Myself, my father and my stepmother, a younger brother and two younger sisters. I think that is all the members.

Q. Did you ever serve in the Japanese Army?

A. I have.

Q. When?

A. Showa 19, the first of December.

The Interpreter: Corresponding to our calendar 1944.

Q. (By Mr. Manes): And why did you serve in the Japanese Army at that time?

A. At that time, even though we may refuse, we were not able to do so. [10]

Mr. Grean: I object and ask that that answer be stricken as not being responsive.

The Court: Well, it may go out.

Mr. Manes: I don't believe he has finished yet.

The Court: Repeat the question to him.

(Question repeated.)

A. If I refuse to get in the army, the gendarme will get me, and I feared that I may be punished, and I also feared about the welfare of my family,

(Testimony of Takeshi Tamada.)

and then my family be treated as a traitor perhaps if I take that action. Those are the main reasons.

I was afraid of losing my citizenship, because I knew I had American citizenship, if I go in the army.

Q. (By Mr. Manes): What kind of punishment did you fear?

A. That is, if I refuse to submit to the order.

Q. Yes.

A. Because I do not know exactly what will happen to me, but—well, I have been informed that gendarme will get me if I refuse to obey.

Q. Did you respond to some kind of a notice or order to report to the army? A. Yes, sir.

Q. You received such an order?

A. It was a notice for me to report on a certain hour, a certain day, at a certain place. [11]

Q. So that you reported for the reason that you mentioned, is that correct? A. Yes, sir.

Q. And where were you stationed or located?

A. Originally it was in Hiroshima.

Q. And what did you do there?

A. From 1st of December to the 9th I had a training of—I had a little of basic training.

Q. And what happened then, if anything, or what did you do then, if anything?

A. It was on the evening of the 9th we left Hiroshima and went to Moji. And then we were embarked on a ship and sent to Pusan. And then we crossed the Korea—we crossed Korea and went to a place called Koshu.

(Testimony of Takeshi Tamada.)

Q. And were you stationed and finally located at Koshu?

A. No, sir. We remained at Koshu until about March 20th.

Q. Of what year? A. Showa 20.

The Interpreter: 1945.

Q. (By Mr. Manes): And where is Koshu?

Mr. Grean: 1945?

The Interpreter: Yes.

Q. (By Mr. Manes): And where is Koshu?

A. Koshu is in China. [12]

Q. And what were your duties while you were stationed in Koshu?

A. Well, it is a beginner's basic training in the army.

Q. And how long did you have this basic training in Koshu?

A. It was from around January to March.

Q. Of what year? A. Showa 20.

The Interpreter: 1945.

Q. (By Mr. Manes): After you were through with basic training at Koshu, what were your duties then?

A. And then they put me into the recruits as a Kempei gendarme.

Q. Was that known as a Kempei Tai?

A. Well, it is a place for schooling for Kempei.

Q. What kind of an organization was this Kempei?

A. It is more or less a policing of the army.

Q. Did you volunteer for this assignment?

(Testimony of Takeshi Tamada.)

A. No, I did not. I was simply drafted into it.

Q. Did you protest your assignment to anybody?

A. I was told if I refused to get into the Kempei school I would be sent to another branch of the army.

Q. Who told you this?

A. One of my superiors.

Q. Did you protest to anybody else? [13]

A. At that time?

Q. At that time.

A. Well, I was told before I objected, protested, that if I refused to go into the other branch of the army, why, I will have to stay in the Kempei.

Q. Did you ever protest to any officer in your unit about serving in the Kempei Tai?

A. I did.

Q. To whom?

A. He told me that if I wouldn't remain in the Kempei, I would be sent to another branch of the army.

And then I went to the Kempei office and then there was a receptionist there and he ordered me to take the examination for the Kempei school.

And I told him I did not want to do that.

Then he asked me the reason why.

And I wasn't able to answer him at that time.

Well, he told me that, "It seems like you do not like to serve in the army. I suppose you want to get home, but the real work is going to start from now. Well," he said, "you got the wrong idea, if you want to get discharged and go home."

(Testimony of Takeshi Tamada.)

Then I told him, "Well, if that is the case, I can't help it, I go into the Kempei school."

Q. Were you acquainted with the methods of the Kempei? A. Well, I know a little. [14]

Q. And what did you know?

A. One of the work I did was to supervise—and then watching the acts of the other soldiers transacting business with the chinese, and then checking up those soldiers absent without leave, and watching for smuggling of arms.

Mr. Grean: Watching for smuggling of what?

The Interpreter: Smuggling of arms.

Q. (By Mr. Manes): And where were you stationed while a member of the Kempei?

A. At Nanking.

The Court: We will take our recess a little early this morning.

(Recess.)

The Court: You may proceed.

Q. (By Mr. Manes): Mr. Tamada, while you were in the Kempei, did you ever witness any acts of brutality practiced by members of the Kempei on anyone?

A. No, sir, I have not seen acting on others, but I was myself beaten several times.

Q. What were the occasions of these beatings?

A. Once I failed to salute my superior.

Once I took a bath before my superior took the bath.

And once I was struck because I giggled and showed my teeth.



(Testimony of Takeshi Tamada.)

Q. Were there any other occasions when you were struck, [15] when you first came into the Kempei? A. Yes, at the beginning.

Q. By whom?

A. That is a man that was at the receptionist desk.

Q. And why did he strike you?

A. When he told me to take the examination for the Kempei and I told him I didn't care to take it.

Then I told him that if I have to get in the Kempei, I would rather be just a plain member, and that is when he struck me.

And he said, he told me, "You are a fool to be just a plain member. Well, if you be a plain member, then you will be serving your superior all your life."

And then he finally forced me into it and I had to take the job.

Q. And why did you want to be just a plain member of the Kempei?

A. If I take the noncommissioned officer's course, I know that my period of service will be longer. I was not ambitious to be promoted. I was anxious to leave the army as soon as possible.

Q. Now, Mr. Tamada, how long did you serve in the army? A. Kempeitai?

Q. No. In the army. How long did you remain in the army? [16]

A. From Showa 19——

The Interpreter: That is 1944.

A. ——to in Showa 20——

The Interpreter: That is 1945.

(Testimony of Takeshi Tamada.)

A. —that is when the war ended, in Showa 21—

The Interpreter: That would be 1946.

A. —that is when I was sent back to Japan.

Mr. Grean: Showa 21 is what year?

The Interpreter: I beg your pardon?

Mr. Grean: What was that last date you gave us?

The Interpreter: Showa 21, corresponding to 1946.

Q. (By Mr. Manes): Did you ever vote in a political election?

Just a moment, Mr. Interpreter. Let me get at it in this fashion:

Did you ever vote in any political election in Japan? A. I did.

Q. When? A. 1946, '47, and '48.

Q. And why did you vote in those years?

A. At that time Japan was occupied by the United States Army, and General MacArthur was the head man. And the orders came from MacArthur's office that all should go to vote.

And then I was informed if I do not vote I may probably [17] lose my American citizenship and also suffer other penalty. And a man by the name of Okamoto, who happened to be the second head man of the village, he came to me and said that I must go to vote, and he told me that if I did not vote, I would lose my ration privilege.

Q. Who was Mr. Okamoto?

A. He is the second head man of the village.

(Testimony of Takeshi Tamada.)

Q. You state that you were informed that you would lose your citizenship if you did not vote?

A. Yes, I did.

Q. Why would you lose your American citizenship if you did not vote?

A. I was afraid because it was an order came from MacArthur's office and if I did not abide by it, I would be losing my citizenship.

Q. Did you know that there were elections held in Japan in 1949 and 1950?           A. I do.

Q. Did you vote in those elections, in those years?

A. I did not.

Q. Why not?

A. After I last voted I have heard on the radio and read in the papers that those who voted would most likely lose their American citizenship, and that is why I did not vote. [18]

Q. Previous to that communication over the radio and newspaper, did you know that you would lose your American citizenship if you voted?

A. No, I did not know.

Q. In 1948 was the first time that you learned that you would probably lose your citizenship if you did vote, is that correct?

A. Yes, sir; that is after I voted.

Q. Now, when was the first time that you went to the American Consul while you were in Japan?

A. In the early part of 1949.

Q. And for what purpose did you go to the American Consul?



(Testimony of Takeshi Tamada.)

A. I went to apply for a passport to return to the United States.

Q. And were you able to receive a passport?

A. No. I was refused.

Q. And why were you refused, if you know?

A. Because I was in the army, and then I voted.

Mr. Manes: I ask that this document be marked for identification, purporting to be a "Certificate of Loss of Nationality of the United States, approved by Department of State April 22, 1949," and signed by Stanley S. Carpenter, American Vice Consul.

The Clerk: Exhibit No. 1 marked for identification. [19].

(The document referred to was marked Plaintiff's Exhibit No. 1 for identification.)

Q. (By Mr. Manes): Mr. Tamada, I show you Exhibit No. 1 for identification, purporting to be a "Certificate of Loss of Nationality of the United States," and I will ask you whether or not you received such a document on or about the year 1949.

A. I remember.

Mr. Manes: I offer this as an exhibit.

The Court: It will be received.

The Clerk: Exhibit No. 1 in evidence.

(The document referred to, marked Plaintiff's Exhibit No. 1, was received in evidence.)

Mr. Manes: I would at this time like to ask counsel whether he will stipulate with respect to the exhibits furnished in the Matsuye case last

(Testimony of Takeshi Tamada.)

Tuesday, that it be stipulated that they be either marked for identification or offered into evidence as the case may be, and that the same rulings be made here as were made there.

Mr. Grean: And that includes those exhibits which were incorporated by reference from the Takeshita case?

Mr. Manes: That is correct.

Mr. Grean: It is so stipulated. [20]

Mr. Manes: I will also offer into evidence as exhibits two documents which are the depositions of Dr. Shinkichi Unno and the deposition of Mr. Keiichi Yoshioka. These depositions were taken in this case and filed with the court on October 17, 1950. I offer them into evidence as Exhibits 2 and 3.

Mr. Grean: No objection.

The Court: They were taken in this case?

Mr. Manes: Yes, your Honor, by order of Judge Mathes.

The Clerk: They were taken by Miss Martin in Japan.

The Court: They may go in.

The Clerk: Exhibits 2 and 3 in evidence.

(The documents referred to, marked Plaintiff's Exhibits Nos. 2 and 3, respectively, were received in evidence.)

Mr. Manes: I have no further questions at this time.

(Testimony of Takeshi Tamada.)

The Clerk: Exhibit No. 2 is the deposition of Keiichi Yoshioka.

Exhibit No. 3 is the deposition of Skinkichi Unno.

Mr. Grean: May I at this time, if the court please, offer a further amendment to the interlineation which was made in amending the answer this morning, to add the words "and 1948" in paragraph VII of the answer?

The Court: Yes.

Mr. Grean: Which, with that inclusion, will read, "and alleges that the plaintiff voted in 1947 and 1948." [21]

The Court: Granted.

Mr. Grean: Thank you.

### Cross-Examination

By Mr. Grean:

Q. Mr. Tamada, with whom are you residing here in Los Angeles?

A. I am living with my brother-in-law.

Q. That is your sister's husband?

A. Yes, sir.

Q. And where is your other sister at present?

A. She lives in Chicago.

Q. And where is your older brother?

A. My older brother died in Japan in the year Showa 12.

The Interpreter: That is 1937.

Q. (By Mr. Grean): And your younger brother?

(Testimony of Takeshi Tamada.)

A. He is in the United States Army, stationed at Hokkaido.

Q. He is there at the present time?

A. Yes, sir.

Q. And what about your mother and father?  
Where are they now?

A. They both died.

Q. Did they die in Japan?

A. Yes, sir.

Q. Did they ever return to the United States after they [22] went with you in 1933 to Japan?

A. No, sir.

Q. Did you or your parents own any land in Japan?

A. Yes, sir.

Q. And was that farm land?

A. Yes, sir.

Q. And did your going to agricultural school result from a desire to learn how to farm the land which you had in Japan?

A. No. It is not so.

Mr. Grean: He has answered the question.

Mr. Manes: I request that we have the rest of the answer, if there was any more.

The Court: Is there more to the answer?

The Interpreter: He was trying to say something, your Honor.

The Court: What is that?

The Interpreter: He was trying to say something. I didn't get the whole answer.

The Court: Ask him if he finished his answer.

A. Yes, a little I wish to say.

Q. (By Mr. Manes): What?

A. I wish to state a little more.

The property which became in my name was after the war when they had the farm reformation in

(Testimony of Takeshi Tamada.)

Japan. And of course [23] I did not purchase any property to engage in farming, but this property came to me after the war.

Q. (By Mr. Grean): Now, Mr. Tamada, you traced your activities this morning for your counsel, from approximately 1953 up to the time that you went into the army, but weren't you during that period a machine technician at the navy arsenal at Hiro?

The Interpreter: What was that date?

The Reporter: "1953."

The Interpreter: The plaintiff wants to know what date was it, Mr. Grean.

Mr. Grean: 1933, up to the time he went into the army.

A. Yes. I worked there for a while.

Q. (By Mr. Grean): And that arsenal was engaged under the Japanese Navy in the manufacture of airplane parts, is that right?

A. Yes, it was attached to the navy, but I wouldn't say it was a munition factory.

Q. I didn't say it was a munition factory either, Mr. Tamada. I said that it was manufacturing airplane parts during that time, is that correct?

A. Yes, sir.

Q. When did you first go to work at the navy arsenal in Hiro?

A. I started to work, I believe it was, October 1st, [24] Showa 16.

The Interpreter: That is 1941.



(Testimony of Takeshi Tamada.)

Q. (By Mr. Grean): And how long did you continue to work there?

A. Around up to Showa 19, at the end of—up to the end of November, Showa 19.

The Interpreter: That is 1944.

Q. (By Mr. Grean): So that from 1941 to a month before you went into the army in 1944, you were engaged in working at the navy arsenal at Hiro?

A. Yes, sir.

Q. Now, this morning you testified that in 1941, after you graduated from the agricultural school, you attended an upper grade for about two months and then you were sick and left school around May of 1941. Do you recall that testimony?

A. Yes, sir, about two months.

I finished school around Showa 15.

The Interpreter: That is 1940.

A. (Continuing): And then I was sick around September in the same year, and I was sick, so I just attended from about January to March.

And then I graduated and then I hesitated to go back because I was weak, and then I had financial difficulties at the time at my home.

Q. (By Mr. Grean): Then you testified that you stayed at [25] home at Asa-gun, which was about six miles away from the city of Hiroshima, and you were living there with your family.

A. Yes, sir.

Q. Well, did you continue to live there while you were working at the navy arsenal?

(Testimony of Takeshi Tamada.)

A. No, I did not stay at home. I lived near the place where I worked.

Q. Then you testified this morning that after you left school and before you went into the army you lived with your family. Was that for a short period of time? Is that what you meant to say?

A. Yes, a short time.

Q. Now, when you testified this morning that you were afraid that the gendarme would get you, were you referring to the Kempeitai?

A. Is it in regard to my notice to enter the army?

Q. Yes.

A. Yes, if I refused to abide by the notice I was afraid the Kempeitai may come over and get me.

Q. The Kempeitai was the military police at that time of the government, was it not?

A. Yes, sir.

Q. And they were pretty much in charge of the affairs in Japan at that time, weren't they? [26]

A. Yes, sir.

Q. Were they ever referred to as the "secret police," Mr. Tamada?

A. I didn't know it to that extent.

Q. At the time that you received this notice, was it a notice to report for a physical examination?

A. I received, around the middle of Showa 19——

The Interpreter: That is 1944.

A. ——a notice to take my physical examination.



(Testimony of Takeshi Tamada.)

Q. And where were you at the time you received that notice?

A. I am not positive where I received that notice.

Q. Where did you report for your physical examination? A. I went to Kure.

Q. And you weren't sick at that time, were you, Mr. Tamada?

A. No. I was not. I had recovered.

Q. You were in good physical condition?

A. Yes. Yes, I passed with perfect grade.

Q. And had you had any training in judo in your school?

Mr. Manes: Objected to as immaterial.

The Court: Objection overruled.

A. I learned a little of this Kendo, that is this fencing.

Q. (By Mr. Grean): How did you rank in your class as a [27] fencer?

A. No, I was not classified.

Q. And did you have any military training while you were in school? A. Yes.

Q. What did that military training consist of, Mr. Tamada?

A. Oh, it was a low class of middle school and the training was very rudimentary, marching around.

Q. What else did you learn in military training while you were in school?

A. Carrying around a wooden gun, and then we were ordered to march, and the "Attention" and all those simple orders.

(Testimony of Takeshi Tamada.)

Q. Did you have any training in hand grenades?

A. No, sir, I have not.

Q. While you were in agricultural school, was there any military training?

A. Oh, that military training I referred to was in the—was at the agricultural school.

Q. I see. Now, at the time you got your notice to report for physical, did you protest about taking your physical examination, to anyone?

A. In other words, is the protesting refusing to enter the army? [28]

Q. Yes. Did you tell anyone that you were an American citizen, that you didn't want to take your physical, or did you go to see any official about it?

A. I was afraid to say such things.

Q. Then your answer is "No," that you did not protest or talk to anyone about it, is that correct?

A. That is right.

Q. Now, how soon after you received your notice of physical fitness were you told to report to the army?

A. We had several examinations, physical examinations, on the day, and then, when we passed the last examination that day, they will classify us whether we passed or not. It was on that date.

Q. And on that date, which you testified was sometime in the middle of 1944, I believe, were you told when you should appear for army induction?

A. I was told to report in December.

Q. Between the time that you took your physical examination and the time you were told to report,

(Testimony of Takeshi Tamada.)

that is, between the time that you took your physical examination and the time you reported, did you continue to work at the navy arsenal?

A. Yes, sir.

Well, I have been previously given notice that my work was frozen, I wasn't to leave it.

Q. Now, when was it that you took the examination to [29] enter into the Kempeitai? Strike that.

Was it necessary for you to take an examination to become a member of the Kempeitai?

A. Yes, sir.

Q. And what did that examination consist of, if you remember, Mr. Tamada.

A. Of course, in my case I was for a plain member of the Kempeitai, and the subjects consisted of arithmetic, language, I believe there was composition, and a little of history, and the others I cannot remember.

Q. And how many took the examination with you at that time?

A. Well, there were quite a number, but I don't know the number of them.

Q. Well, were there 10, were there 25, or were there 50?

A. Well, there must have been between 200 and 300.

Q. And how many out of that 200 or 300 passed that examination, do you know?

Mr. Manes: Objection. It calls for a conclusion.

The Court: It calls for a conclusion, all right.

(Testimony of Takeshi Tamada.)

It is a conclusion of fact. If he knows he can testify to it.

Mr. Grean: Did he answer that question?

A. I believe very few failed.

Q. (By Mr. Grean): Now, isn't it true that you volunteered, that it was necessary to volunteer for membership in [30] the Kempeitai?

A. Oh, I have been forced to take that examination.

Q. Isn't it true that it was necessary to volunteer to become a member of the Kempeitai?

A. Yes, usually they volunteer, but in my case I was told to go—I was forced to take that examination; otherwise I would be transferred to some other branch of the army.

Q. And it was because you didn't want to be transferred to some other branch of the army that you took the examination for Kempeitai, is that correct?

A. If I didn't take the examination for a plain member of the Kempeitai, I was told that I may have to take the noncommissioned officer's training.

Q. In other words, they thought pretty well of you—Strike that.

Isn't it true that the Kempeitai membership was considered an honor?

A. It seems like people thought so, because many of the people were afraid of the Kempeitai.

Q. Did the Kempeitai receive higher pay than the ordinary soldier?

(Testimony of Takeshi Tamada.)

A. I don't know the difference.

Q. And the Kempeitai had authority over the ordinary soldier, didn't they?

A. Well, I believe so. [31]

Q. And the Kempeitai carried firearms on their persons?

A. Is it pistol?

Q. Yes.

A. Yes, sir.

Q. What other insignia or what other uniform distinguished them from the ordinary soldier?

Mr. Manes: I object to that as to form, and he assumes a fact in evidence that is not there.

The Court: Objection overruled.

A. My uniform wasn't any different from the other soldiers, only we wore a band on our arm designating that we are Kempeitai. Then we wore leggings.

Q. (By Mr. Grean): And the other soldiers that were not in the Kempeitai did not wear leggings, is that correct?

A. Yes; it might be a cavalry may wear it, but others don't.

Q. Well, now, what rank were you when you first entered the army?

A. I was a second-class private.

Q. And when did your first promotion come?

Mr. Manes: Objection as to form and it assumes facts not in evidence.

The Court: Sustained.

Q. (By Mr. Grean): Were you promoted, Mr. Tamada, from second-class private? [32]

A. Yes. I remember I became a first-class.



(Testimony of Takeshi Tamada.)

Q. And when was that?

A. Maybe around May or June, but I am not certain.

Q. Of what year?      A. Showa 20.

The Interpreter: Corresponding to 1945.

Q. (By Mr. Grean): And were you promoted after that?      A. I was not promoted.

Q. And what sort of membership did you have in the Kempeitai, were you an ordinary, a plain member, as you stated, all during the time that you were in the army?

A. I went into the Kempeitai around May of Showa 20——

The Interpreter: That is our calendar 1945.

A. ——and then, up to the close of the war, I was a first-class private.

Q. (By Mr. Grean): Now, when you went into the Kempeitai you had to go to Kempeitai school, did you not?

A. There are two classifications. One is to become a noncommissioned officer and one is just a plain member of the Kempeitai.

Mr. Grean: Will you repeat my question, please, and I ask that he answer it.

(Last question above recorded read by the reporter.)

A. Yes, sir.

Q. (By Mr. Grean): How long did you go to that school? [33]

A. From March 25th, that is Showa 20——

(Testimony of Takeshi Tamada.)

The Interpreter: That is 1945.

A. ———and I believe it was around to May 20th. It must have been about two months.

Q. (By Mr. Grean): And how did you rank in the Kempeitai school, Mr. Tamada?

A. Well, it can't be more than medium.

Q. Isn't it true that you ranked third in the Kempeitai school while you were there in attendance?

A. No, sir. No, I didn't have that much ability. Well, if I was around third, why, at that time they would give me either a silver or a gold watch, to a person that ranks up to number ten in the class, and I didn't get any watch.

Q. How many were in the class?

A. The class was divided into two classifications. In my class there was about 30 or 40——

Mr. Grean: And were those—I am sorry. He hasn't finished yet. Let him finish.

The Interpreter: He is trying to explain something. I don't know what he is trying to explain.

Mr. Grean: And what was he saying?

The Interpreter: He wasn't trying to say something. I didn't get his full testimony.

Mr. Grean: Has he finished the answer? [34]

The Interpreter: Yes, sir.

Q. (By Mr. Grean): And how many of those 30 or 40 do you recall took the examination with you to enter the Kempeitai?

A. I didn't quite get the question.



(Testimony of Takeshi Tamada.)

Mr. Grean: I withdraw the question.

Q. How many of those that were members of your class graduated Kempeitai school as members of the military police?

A. The whole class graduated.

Q. And how many of those that were in your class took the examination to enter Kempeitai school at the same time you did?

A. They all entered, they were scattered different places, but they all went.

Q. By "different places" what do you mean, different locations of cities, or different classrooms?

A. I was sent to Nanking, but others were sent to different localities, I don't know where.

Q. That was after you graduated, is that what you are referring to?      A. Yes, sir.

Q. Now, what training did you receive in the period that you were in the Kempeitai school?

A. How to capture a prisoner.

How to follow the suspects. [35]

After capturing a prisoner, too, they showed us the method of searching a person.

If there was a crime committed, we were taught how to investigate.

Then we were taught how to use firearms.

I forgot the rest.

Q. Now, when you were dispatched to Nanking as a member of the military police, were your living quarters with the other soldiers that were occupying Nanking or were they in separate quarters of military police?

(Testimony of Takeshi Tamada.)

A. We lived in different barracks.

Q. Now, were you captured as a prisoner of war?

A. No; not exactly I was a prisoner of war.

Q. Were you captured by the enemy?

A. From August, when the war ended, to October of the year, I was still in the Kempeitai, and we got our food from the Chinese, I remember, and in October I suffered from malaria and beriberi, and I went to hospital, and February of next year we left for Japan.

The Court: We will recess until 2.00 p.m.,

(Whereupon a recess was taken until 2:00 o'clock p.m., of the same day, Friday, March 19, 1954.) [36]

Friday, March 19, 1954, 2:00 P.M.

The Court: You may proceed.

#### TAKESHI TAMADA

the plaintiff, resumed the stand as a witness in his own behalf and, having been previously duly sworn, testified further through the interpreter as follows:

#### Cross-Examination

(Continued)

By Mr. Grean:

Q. Mr. Tamada, you testified this morning that the man at the reception desk told you that you would be a fool to be just a plain member of the

(Testimony of Takeshi Tamada.)

Kempeitai; that you wanted to be just a plain member because the officer's training course would be longer. Was that your answer?

A. Yes, sir.

Q. Did you take an officer's training course?

Mr. Manes: If your Honor please, I believe he said "noncommissioned officer" this morning and that he referred throughout to a noncommissioned and not to a commissioned officer.

The Court: He can ask him if he took an officer's training course.

A. No, sir.

Q. (By Mr. Grean): Now, you testified this morning, Mr. Tamada, that you voted in 1946, 1947, and 1948, is that correct? [37] A. I did.

Q. Did you tell the Vice Consul when you made application for your passport that you had voted in '46, '47, and 1948? A. I did not.

Q. In fact, you told him that you voted in 1946 and did not vote in 1947 and 1948 and 1949, didn't you? A. Yes, I did.

Q. And then did you give a statement on January 13, 1950, with regard to your army service and your voting? A. At the consulate?

Q. No, no. It was not at the consulate.

Didn't you make a statement on January 13th to anyone regarding your army service and voting, to any representative of the United States Government?

A. I don't remember the date, but it was during January that I was called in to C. I. C. office.

(Testimony of Takeshi Tamada.)

Mr. Grean: May I have marked for identification, please, a document written in Japanese with an English translation attached?

The Clerk: Defendant's Exhibit A for identification.

(The documents referred to were marked Defendant's Exhibit A for identification.)

Mr. Manes: May I see this document first, counsel?

Mr. Grean: You may see it. [38]

Q. I show you the Defendant's Exhibit A for identification, which is entitled a "Han Statement," and I ask the interpreter:

What is the interpretation of the word "Han" in reference to a Han Statement?

Did you hear my question, Mr. Interpreter?

The Interpreter: Yes. I can see that "Han."

Mr. Grean: Yes. What is the meaning of the "Han Statement," if you know?

The Interpreter: It is an abbreviation of something, that is what it is. "Han" is the abbreviation of some word, but I don't know which word it is.

Q. (By Mr. Grean): I show this Exhibit A to the plaintiff and ask if that is his statement.

A. It is my handwriting.

Q. And you wrote this statement in your own hand?

A. Yes, sir.

Q. And did you sign this statement?

A. Yes, sir.

(Testimony of Takeshi Tamada.)

Q. And did you at that time say, "I have not voted in the elections held in 1947, 1948, and 1949"?

A. I did.

Q. Did you at that time say, "On 1 December, 1944, I entered the West Division 2nd Troops \* \* \*. I served with the Yari Troops 102 Battalion in Central China Hangchow up [39] to February, 1946"?

A. This portion—yes, I have.

Q. And did you affirm in making that statement that you would speak the truth, adding nothing and concealing nothing?

Now, that question may be answered yes or no, and I want you to instruct the witness to answer whether or not he affirmed that he would speak the truth, adding nothing and concealing nothing in that statement.

A. I have told him that I would speak the truth and I was told to state everything that I stated while coming to the office on the jeep.

Mr. Grean: May I have marked for identification, please, a copy in the Japanese and English languages?

The Clerk: Exhibit B for identification.

(The documents referred to were marked Defendant's Exhibit B for identification.)

Mr. Grean: And may I have marked for identification a supplement in English and Japanese?

The Clerk: Exhibit C for identification.



(Testimony of Takeshi Tamada.)

(The document referred to was marked Defendant's Exhibit C for identification.)

Mr. Manes: Counsel, please, may I see those?

Mr. Grean: Oh, I beg your pardon.

(Documents examined by Mr. Manes.) [40]

Q. (By Mr. Grean): Now, I show you Defendant's Exhibit C for identification and ask you if you made that statement, contained in Exhibit C, under oath? A. No, I did not.

Q. Is that your signature?

A. Yes, sir, that is.

Q. And is your signature on this document (indicating)? A. Yes, sir.

Q. And in signing that, did you swear that that was the truth? A. No, I did not.

Q. And did you make the statement in this document, "I did not vote in 1947, 1948, 1949. I did vote in 1946"? A. Yes, I did say that.

Q. And was that statement made before Mr. Meloy, the American Vice Counsel?

A. Well, I believe I did.

Mr. Grean: I offer Defendant's Exhibit C in evidence.

Mr. Manes: Object to that on the grounds that it is hearsay and the witness is here and has so testified as to the contents of that document.

Mr. Grean: The witness has testified that he



(Testimony of Takeshi Tamada.)

did not give the testimony in the document under oath, and the document shows that he did.

The Court: It will be received. [41]

The Clerk: Exhibit C received in evidence.

(The document referred to, marked Defendant's Exhibit C, was received in evidence.)

Q. (By Mr. Grean): I now show you Defendant's Exhibit B for identification and ask if that is your signature? A. That is.

Q. And was that information in that document given by you? A. Yes, sir.

Q. And was that information in that document given under oath?

A. I believe I was not sworn.

Q. Did you translate the——

I am calling attention of the witness now to the portion of the document which bears the seal——

The Court: And the attestation clause.

Q. (By Mr. Grean): ——and the attestation clause, signed by D. J. Meloy, Vice Consul of the United States, and ask if that indicates in Japanese that that document was taken under oath.

A. I don't recall seeing that.

Mr. Grean: Let me ask the interpreter if the document bears in Japanese an attestation clause, over the seal and signature of the Vice Consul of the United States.

The Interpreter: In Japanese it says, "Before this [42] officer—official I have signed and I have—I certify I have been sworn."

(Testimony of Takeshi Tamada.)

Q. (By Mr. Grean): And in this document which is Defendant's Exhibit B, in answer to the question, "'\* \* \* give date and place of voting and nature of each such election \* \* \*,'" did you answer, "April 10, 1946"?

A. Yes.

Mr. Grean: I offer this document in evidence.

Mr. Manes: I object to that on the ground that the statements therein contained are stated here.

The Court: The objection is sustained.

Mr. Grean: If the court please, here again there has been a denial of the fact that the information given in this document was given under oath. The document has on its face an attestation in Japanese with the seal of the United States and the signature of D. J. Meloy.

The Court: It has been read into the record and his attention called to it. You have that at the present time in the record.

Q. (By Mr. Grean): Now, on the 13th of January, 1950, did you make another statement later that day?

A. The statement I just testified about?

The Court: I would proceed by way of refreshing his recollection, counsel. Of course you got your attestation clause in there. Let him read it over the signature. [43]

Mr. Grean: May I have marked for identification a statement in Japanese and in English?

The Clerk: Exhibit D for identification.

(The documents referred to were marked Defendant's Exhibit D for identification.)

(Testimony of Takeshi Tamada.)

Mr. Grean: Counsel, would you like to examine this document?

Mr. Manes: Yes.

(Mr. Manes examines document.)

Q. (By Mr. Grean): I show Defendant's Exhibit D for identification to the witness and ask if that is his "Han Statement" in his writing.

Mr. Manes: I object to that question as to form, on the ground that it was not ascertained by the question whether that statement was rendered voluntarily.

The Court: The objection is overruled on that ground.

Ask him if it is his signature, counsel, and not ask the type of statement it is. It will speak for itself, if it is necessary. Just ask him if it is his signature.

Mr. Grean: I will withdraw the last question.

Q. And I ask you if that document bears your signature? A. Yes, sir.

Q. And was that document written by you in your hand? A. Yes, sir.

The Interpreter: I may explain about that [44] "Han Statement" if you want now what the meaning is.

Mr. Grean: Do you recall the meaning of the "Han Statement"?

The Interpreter: The Han Statement. "Han" is a fingerprint or print, and after they make a

(Testimony of Takeshi Tamada.)

statement they will put either their thumb or their other fingerprints on it.

Q. (By Mr. Grean): Now, in that statement, Mr. Tamada, did you say, "In February, 1945, I voluntarily took an examination to enter into the Kempeitai and passed"?

The Court: Let him see the statement, counsel.

Mr. Grean: Let him see the statement?

The Court: Yes.

(Mr. Grean hands exhibit to the witness and interpreter.)

Mr. Grean: I don't know which page it is on.

A. Yes, I did.

Q. (By Mr. Grean): And did you in that statement state, "I, Tamada, Takeshi, made a false report to the United States Consulate, United States Court, and again made a false report today in my statement"?

Ask him that much. That is right here (indicating). A. Yes, I did.

Q. And the false statement that you were referring to when you made that statement, was that with respect to the number of times and the dates that you voted? A. That may be one of them. [45]

Q. Now, in that statement did you state, "I voted in the April, 1946, election on 1 occasion and in 4 occasions in the elections held in April, 1947. I voted voluntarily to assist the recovery of Japan"? Did you make that statement?

(Testimony of Takeshi Tamada.)

(Mr. Grean indicates on document to the interpreter.)

A. Yes, I did.

Q. And did you at that time state, "The reasons for my entry into the Kempeitai was to render greater service of Japan's war effort and at the same time keep in line others who were carrying out their duties," and did you further state, "In the Kempei school I ranked 3rd"?

A. Yes; I don't know whether I wrote it in Japanese or not, but I have been forced to say that.

Q. Look at the Japanese and see if you wrote it in your own hand in Japanese.

A. I don't recall writing such a thing and I can't find it here in Japanese.

Q. Turn the page, turn the page and see if you can find it on the other side?

A. Yes, it is in the Japanese also.

Q. And you made that statement?

A. Yes, sir.

Q. Now, a moment ago, Mr. Tamada, I asked you if you made the statement regarding a false report with respect to the dates and the number of times you voted, and you said [46] that was partly the reason. Do you have another reason?

A. I was afraid that if I would mention all the times that I voted, that I would lose my American citizenship and wouldn't be able to receive my passport, and that was the chief reason of not receiving my papers, I was afraid of that, and at that time I was so anxious to return to the United States.



(Testimony of Takeshi Tamada.)

Q. Now, while you were at the Hiro Arsenal manufacturing—where they were manufacturing these airplane parts, did you take an oath or repeat an oath each day?

Mr. Manes: I object to that as immaterial.

The Court: Objection overruled.

A. I don't believe I took oath in the morning.

Q. (By Mr. Manes): Did you take one at any time during the day?

A. There was in the shop a large frame with words on it, and in those words it gives the duties of all those who are serving in the army.

Q. And did it say, "I will do my best for the Emperor and endeavour Japan to crush the United States"?

The Interpreter: What was that question again?

(Mr. Grean indicates on paper.)

A. Is that on the frame, the wording in the frame?

Q. (By Mr. Grean): I am asking, was that the wording in the frame? yes. [47]

A. I don't recall seeing such wording in the frame.

Q. And did you take such an oath each day?

A. No, sir, I did not swear.

Q. Now, calling your attention again to Defendant's Exhibit D for identification, I ask you if you made the statement:

"In December, 1941, I was mobilized and drafted



(Testimony of Takeshi Tamada.)

as machine technician at the Hiro Arsenal. This Arsenal was supervised by the Japanese Navy and manufacturing airplane parts. I repeated the following oath every day, 'I will do my best for the Emperor and endeavour Japan to crush the United States.' I repeated this oath voluntarily, and with pride."

Was that statement yours?           A. I did.

Mr. Grean: Now may I have this marked for identification, please?

The Clerk: Exhibit E for identification.

(The document referred to was marked Defendant's Exhibit E for identification.)

Q. (By Mr. Grean): I show you Defendant's Exhibit E for identification, which is a photostat, a photostatic copy of what purports to be a military service record, and I ask you to examine that record and see if it pertains to you. [48]           A. Yes, sir.

Q. Now, on that document there appears under your name, which is given as "Tamada Takeshi": "4th son of Toshisuke." Will you tell me if that language appears under your name?

A. That "Toshisuke" is also pronounced as "Jesuke." That is my father. Yes, fourth son.

Q. And were you the fourth son of your father?

A. Yes, sir.

Q. You have testified that when you went to Japan, you went with an older brother, two sisters, and a younger brother, in addition to your mother.

A. Yes, sir.

(Testimony of Takeshi Tamada.)

Q. Did you have any brothers that did not go to Japan with you?

A. Two remained in Hawaiian Islands.

Q. And they were two brothers that were older than you? A. Three.

Q. The two? I was referring to the two that remained in the Hawaiian Islands.

Then you have three brothers that are older than you? A. Yes, sir.

Q. Now, further appearing on this military service record which is Defendant's Exhibit E for identification is the statement, "Enlisted with the Replacement Unit, 11th [49] Infantry Regiment, on active service on 1 December, 1944." Will you tell me, in looking at the military service record in Japanese, if that is a proper translation?

A. That is a correct translation.

Mr. Grean: Now, is the witness volunteering information or is that a further answer to the last question?

The Interpreter: No. He is just trying to explain some of these wording—"the Infantry"—for you. It is not an answer. He is trying to explain some of the wording.

Q. (By Mr. Grean): You may state his explanation, if you desire.

A. The "11th Infantry" it says on that is actually, in Hiroshima—it had another name in Hiroshima. It was the 2nd Battalion. Formerly it had been using the name of "11th Infantry" but later

(Testimony of Takeshi Tamada.)

on it had been changed, the name had been changed.

The Interpreter: He wanted to explain that.

Q. (By Mr. Grean:) To "Western #2 Regiment," is that right?

A. Well, it had been changed, but I don't know when it had been changed.

Q. Now, in your statement contained in Defendant's Exhibit B for identification, which you have testified as being yours, you stated that you were transferred to the "Spear" Unit on January 20, 1945. What was the "Spear" Unit? [50]

A. That was the name of the Butai, that is the outfit we entered, and it is a Spear, that means that it was the name of the outfit we entered at that time.

Q. That outfit was known also as the Independent Infantry of 102 Battalion, wasn't it?

A. The 102 Battalion was the same as the Yari outfit.

Q. And the term "Yari" or "Spear" was a particular nickname for that outfit?

A. Oh, they had different nicknames for the different battalions in the infantry.

Q. And do you know how it got the name of "Yari Battalion" or "Spear"?

Mr. Manes: I object to this line of questioning on the grounds it is wholly immaterial and irrelevant.

The Court: Objection overruled.

A. I do not know.

(Testimony of Takeshi Tamada.)

Oh, that name was there before I entered the army.

Q. (By Mr. Grean): Now, Mr. Tamada, in your statement to the Vice Consul, of November 3, 1949, which is Defendant's Exhibit B for identification, you stated that you voted in 1946 and your reason for voting was that "Mr. Okamoto \* \* \* urged to all to vote"? A. Yes, I did.

Q. And you gave as your reason for voting, "Newspapers and radio broadcasts and various civic group campaigns urging [51] to vote made me do so. Since this was the first time election was held, I became confused and voted unknowingly regarding my citizenship." A. Yes.

Q. Now, were you still confused when you voted four times in 1947?

A. Yes, I have been confused.

Q. And were you confused on each of those four occasions?

What is his answer to that question?

The Interpreter: He hasn't answered yet.

A. I couldn't say how much I was confused.

Q. (By Mr. Grean): And were you confused when you voted in 1948?

A. I don't believe I was confused in '46, '47, and '48.

Mr. Manes: May I have the answer to the last question, please?

The Interpreter: "I don't believe I was confused in 1946, 1947, or '48."

(Testimony of Takeshi Tamada.)

Q. (By Mr. Grean): You were just confused in 1946, is that correct?

A. I don't know how much I was confused, but, of course, I had something worrying me.

Q. Now, in Defendant's Exhibit A, which is the first statement which you made on January 13, 1950, you stated, [52] "On around March I attended the Village People's Meeting where both Sunahara and Okamoto made speeches."

And in Defendant's Exhibit D, which is dated the same date, you said, "I have never participated at the Village People's Meeting together with Sunahara \* \* \*, nor have I heard the speech made by Okamoto \* \* \*."

Now, which statement is true, Mr. Tamada?

Mr. Manes: I am going to object to that question on the ground that it has never been established whether Exhibit D was voluntarily rendered.

The Court: Objection overruled.

A. Yes, I think I did make two different statements.

Q. (By Mr. Grean): I ask which of those statements was true.

A. In this one which says "Sunahara"—I attended the meeting with Sunahara. He did not speak. Okamoto spoke.

Q. Then your statement now is that Defendant's Exhibit A for identification contains the truth, and Exhibit D does not?

A. This is the truth (indicating document).

Mr. Grean: I offer Exhibit D in evidence.



(Testimony of Takeshi Tamada.)

Mr. Manes: I object to it on two grounds. that the witness is here to testify as to statements contained therein, and, secondly, because it has never been established whether that statement was rendered voluntarily. [53]

The Court: Well, the objection is sustained. In response to the questions, he has attempted to explain the inconsistencies. He has testified that he made the statement but that it was not true. Putting it in evidence doesn't add anything. Of course, as to your objection with respect to the question of whether it was voluntarily made, not considering that objection, he apparently was confused with the rule with respect to the voluntary character of confessions in criminal cases, and this was not a criminal case nor is this supposed to be a confession, and so it is not necessary to establish the voluntary character by going into it. However, it is the same question we had before. Where a witness has made a statement and he admits that he made that statement, then a writing is not admissible.

Where he has made a statement and denies that he made that statement, then of course it is admissible to prove that he did make the statement.

In these cases where he admits the signature, then he has made the foundation for the admission of the statement. But, of course, when he admits that he made the statement, then it is not admissible.

Mr. Grean: I accept the court's ruling and thank the court for pointing out the basis of the ruling.



(Testimony of Takeshi Tamada.)

Q. Mr. Tamada, you have been a Japanese citizen since birth, is that true? [54]

A. Yes, I was a Japanese national.

Q. Were you taught in school, Mr. Tamada, that the Japanese Emperor was supreme?

Mr. Manes: Objection on the ground it has been asked and answered.

Mr. Grean: Not in this case.

The Court: It will be overruled. I don't recall his answer. That question can be answered.

Mr. Grean: It has not been answered in this case, your Honor.

A. I did.

Q. (By Mr Grean): And were you taught in school that it was an honor to die for the Emperor?

A. Yes, sir.

Mr. Grean: I have no further questions.

Mr. Manes: If the court please, I have some questions.

The Court: All right. We will take a five-minute recess.

(Recess.)

The Court: You may proceed.

Redirect Examination

By Mr. Manes:

Q. Going back to your testimony earlier today, Mr. Tamada, did you own any land in Japan before the war?

A. No, sir, I have not.

Q. Did you own any land during the war? [55]

A. No, sir.

(Testimony of Takeshi Tamada.)

Q. Did you ever purchase any land while you were in Japan?

A. After the war there was what they call a farm reform in Japan, and the property, the farm was in my older brother's name, and my older brother became an absentee landlord, and I happened to be on the farm, and at that time, according to that farm reform, the government will take over the land of an absentee owner and would sell it to the tenant of the farm. And the government transferred the title to my name and I paid the government, and the government will turn over the purchase money to my older brother.

Q. Was that transfer the result of the land reform law proclaimed by General MacArthur?

Mr. Grean: I object to the question on the ground that it is immaterial.

The Court: Objection overruled.

A. Yes, sir.

Q. (By Mr. Manes): Now, you stated that you worked at the naval arsenal in Japan around October 1, 1941?

A. In 1941, is that Showa? 16.

The Interpreter: In Showa 16, and it corresponds to our calendar 1941.

Q. (By Mr. Manes): Now, what was your purpose in working at the naval arsenal? [56]

A. I had to help my family because my family had financial difficulty.

Q. And while you were working in the naval

(Testimony of Takeshi Tamada.)

arsenal, did you receive any orders from the government causing you to remain in the arsenal, remain working in the arsenal, that is?

A. Yes. It came.

Q. Approximately how soon after your employment did you receive such an order?

A. It must have been about two months after I started working.

Q. And from that time until the time that you were drafted into the Japanese Army, you remained in the arsenal because of this order, is that correct?

A. Yes, sir.

Q. You also stated in reply to counsel for the defendant's question that you received some kind of military training while you were in school. Was this a part of the curriculum of the school, was it a required course, or did you volunteer for that?

A. It is a subject which is compulsory.

Q. And did all students have to participate in it, or was it just voluntary for all the students?

A. The whole students.

Q. You also explained to the court that you were [57] promoted while you were in the army. I will ask you whether or not you know what you did to earn such a promotion, if anything.

Mr. Grean: I object to the question as calling for a conclusion of the witness.

The Court: Overruled.

A. Those who had——

The Court: That is not responsive. It can't be

(Testimony of Takeshi Tamada.)

responsive. He is asked what he did to earn promotion, if he knows. He can either testify what he did or he doesn't know, one of the two.

Mr. Manes: If he did anything to earn it, I said.

The Court: Read the question.

(Pending question read.)

A. No, sir.

The Court: By "No, sir," do you mean you do not know?

A. I never did do anything to get it.

Q. (By Mr. Manes): Nothing that you know of, that is, is that correct?

A. I never did do anything.

Q. Now, on January 13, 1950, you purportedly gave a statement, which was given in Hiroshima, after you had already been to the Consul, and you have identified this signature as your own, is that correct?

The Court: Identify the document, counsel. [58]

Q. (By Mr. Manes): This is Exhibit D for identification, on which you have identified the signature as your own, is that correct?

A. Yes. I remember making it.

Q. Yes. Now, as a matter of fact, you gave two statements on that day, did you not?

A. I do not know how many statements, but—I do not know, no.

Q. Well, you gave the statement on the 13th of January, 1950, which is Exhibit D, and you also

(Testimony of Takeshi Tamada.)

made a statement which is noted in Exhibit A for identification, also dated on the 13th of January, 1950, and which you have identified. Do you recall that?       A. Yes.

Q. I wonder if you will explain to the Court what the circumstances were on that particular day that led you to make those two statements, if you recall?

A. I have been pressed to make that statement.

Q. What was the beginning, were you visited by somebody on that particular day?

A. The C.I.C. had.

Q. Someone from the C.I.C. came to visit you?

A. Around the early part of January, 1950, a member from the C.I.C. came to the house.

Oh, a man in a jeep came to the office, and he told me [59] that, "Your application will be approved but we have further more things to put in the application."

And he took me on the jeep and while on our way he made me make statements and he put down in writing.

And then after we got out, he had a paper there and he told me that everything I said in the jeep is on the paper, and me to sign it.

Q. Now, I will ask you whether or not the paper to which you refer is Exhibit A for identification, Defendant's Exhibit A for identification.

A. I am not sure whether this was the statement or not. Yes, I believe this was the statement.



(Testimony of Takeshi Tamada.)

Q. When was the last time you saw this paper, Mr. Tamada?

The Court: He is referring to Exhibit A there now?

Mr. Manes: Exhibit A for identification, Defendant's Exhibit A for identification.

The Court: Was that offered in evidence?

Mr. Grean: No, it wasn't, your Honor.

The Court: If it is offered in evidence it will be admitted now.

A. After I made that statement, I don't remember I ever saw it.

Q. (By Mr. Manes): After that statement was given, Mr. Tamada, what happened then, if anything? [60]

A. When he told me to sign it, what I stated in the jeep, after I did sign it, he said, "Well, this will be all right, now, you will get your application approved, so I hope you a good voyage."

And the man told me, "I understand that you have been a Kempei, Kempeitai."

I told him no, I wasn't

And he showed me a paper and he said, "Is that a different person?"

And then I was struck five or six times.

Then he told me to write down frankly everything about my army life and about Imperial family.

And then he referred to this matter, this frame which is hung at the shop, and "I understand you have finished the Kempei class as a third best grade."



(Testimony of Takeshi Tamada.)

And he told me to write all these things which I didn't have in mind, that is, everything against the United States and everything for Japan.

And the next time I was called in was around September, October, and I was questioned at the time that who struck me and then what step I took.

Q. Who called you in, in September or October of 1950?

A. The Japanese police came over and notified me to appear at the C.I.C.

And then I was questioned at that time on who struck me [61] and what step I took in my application.

He asked me something about the Japanese-American Center, and he asked me who my attorney was.

I have been questioned so severely that I became ill and fainted—well, about two times I felt bad and fainted.

And then I was told to appear every day for four or five days consecutively. And then I may have written something at that office also. I am not sure about that.

Q. During these four or five days were you interrogated by members of the C.I.C. about the statements that you had made on or about January 13, 1950?

A. Yes, they have asked me about my statements. When I first visited the C.I.C., when I was struck, there was another soldier present. The soldier standing by said he was struck by a Japanese soldier with a belt and with a slipper.

(Testimony of Takeshi Tamada.)

Mr. Grean: I am going to ask that the last statement go out of the record as being hearsay.

The Court: It may go out.

Mr. Grean: I am going to further move to strike that portion of the record that has to do with anything that occurred at dates after January 13, 1950, as being immaterial, irrelevant, and having no bearing on any of the issues in the case.

The Court: What was the last date of those statements? [62] Were those after the date of January 13th?

Mr. Grean: These statements all apply to September and October when he was called in by the police and questioned as to who struck him. That has no bearing as to any documents or any of the issues in the case.

The Court: I am asking about the statements that he has been interrogated on. What was the last date of those statements?

Mr. Grean: The last date of the statements was January 13, 1950.

The Court: January 13, 1950, of all of the statements that he made?

Mr. Grean: That is correct.

The statements to the consulate were made in November, 1949.

The Court: What is the purpose?

Mr. Manes: We are attempting to show that not only was this particular document, Defendant's Exhibit D for identification, not rendered voluntarily, but that in the course of events severe pressure was

(Testimony of Takeshi Tamada.)

put on the plaintiff with respect to the information which was offered under this document.

The Court: Well, how could anything that occurred subsequent to the time that he signed that document have influenced him into the signing of the document? [63]

Mr. Manes: The events which are subsequent simply contain or are cumulative in terms of the pressure that was put on him beginning January 13th, to show that there was a system applied to him.

The Court: That may all go out.

Of course it is not cumulative because it doesn't tend to prove or disprove anything that was required at the time that occurred. In other words, if he made the statements in January, 1950, anything that happened subsequent to January, 1950, couldn't in any way have induced him to have made the statements in January, 1950.

Mr. Manes: That is correct, your Honor, but I am just trying to show this court that there was an intent here to disturb and molest the plaintiff's rights, by the Government.

The Court: Well, anything subsequent to the date of the statements in 1950 is not admissible for the purpose of proving that he was coerced or that duress was used in his making of these statements.

Mr. Manes: I would like to refer to the other objection that was made as to the testimony just rendered regarding a remark made by a soldier who was present while the plaintiff was being struck. As

(Testimony of Takeshi Tamada.)

to that particular information, I think it goes to the question of what the reason was for striking the plaintiff.

The Court: What was the date of that? [64]

Mr. Manes: That was on January 13, 1950, at the time that this statement was signed, and which you ruled should go out.

Mr. Grean: What the Court ruled may go out was the statement he made attributable to another soldier, that the Japanese soldier had been struck with a slipper and a belt.

Mr. Manes: We are not offering it for the truth of what it means. We are simply saying that this particular person believed that this was the reason why he was struck.

Mr. Grean: I certainly object as to the materiality.

Mr. Manes: I am not offering it for the truth that the Japanese soldier struck another individual. It is immaterial, too, I agree.

The Court: Counsel, as a matter of fact, it isn't clear to me. I intended to question him myself. It isn't clear to me as to who struck him. He testifies he was struck. I made a note here that he was struck five or six times. I have never been able to follow the testimony close enough to know who struck him.

Mr. Manes: We can attempt to clarify that now for the Court.

Mr. Grean: If we can.

The Court: Well, let us go into that.

Mr. Manes: Very well.

(Testimony of Takeshi Tamada.)

The Court: And rule later on your other question with [65] reference to what occurred.

Of course, if this was all simultaneous, then it would be a little different.

Ask him whom he refers to when he refers to the C.I.C.

A. He was a member of the C.I.C. I believe C.I.C. is the Intelligence Corps.

Q. (By Mr. Manes): Do you remember what the name of the man was?

The Court: Just a moment. I want him to clear up whom he considers to be the C.I.C., whom he is referring to when he says "the C.I.C." I can't tell now whether he contends that the American officials beat him up, the Japanese officials beat him up, or who beat him up. You just have it in such a confused state that it is impossible for me to learn who struck him.

Mr. Manes: Well, we will try to clarify it, your Honor.

Q. You stated, Mr. Tamada, that somebody struck you on or about January 13th.

The Court: First, will you clear up whom he is referring to when he says "C.I.C."?

Mr. Manes: Yes, your Honor. That is what I was leading to.

Q. Now, who do you mean by "a member of the C.I.C." that struck you?

A. I believe he belonged to the soldiers. He is a [66] soldier.

Q. Was he an American soldier?



(Testimony of Takeshi Tamada.)

A. Yes, sir.

Q. Was there anybody else with him at that time, when he struck you?

A. There was another soldier.

Q. Do you recall what the name of the soldier was that struck you?      A. I do not.

Q. Was the other soldier also a member of the C.I.C., the one that was watching?

The Court: Excuse me just a minute for interrupting, counsel. Now you are referring to the C.I.C. I still want to know what the C.I.C. is, what he means by "the C.I.C.," and you keep asking him as to the C.I.C., and I want to know what it is.

Q. (By Mr. Manes): What is the C.I.C., Mr. Tamada?      A. I believe it might be an M.P.

The Court: Just a moment, counsel. Let me ask: Whom do you mean when you refer to "C.I.C."?

A. It is attached to the Army, attached to the Army of the occupation force.

The Court: Does "the C.I.C." mean the occupation forces?

A. Attached to the occupation force.

The Court: Is it a police force? [67]

A. I am not certain. In Japan it had been referred to as "Intelligence Corps."

The Court: Oh, in other words, you are referring to the Intelligence Corps of the United States Army?      A. Yes, sir.

The Court: All right. You were struck by a member of the Intelligence Corps of the United States Army?      A. Yes, sir.



(Testimony of Takeshi Tamada.)

The Court: When?

A. It was in 1950, sometime in January.

The Court: Before or after you made this statement of January 13, 1950?

A. It must have been about the same date, on the 13th.

The Court: Where were you at the time?

A. I lived at my home at the time.

The Court: No. Where were you at the time you were struck? A. At Hiroshima, Hiro-machi.

The Court: Were you in the street or in an office? A. I was in the C.I.C. office.

The Court: At Hiroshima?

A. At Hiroshima, Hiro-machi.

The Court: All right. Go ahead.

Q. (By Mr. Manes): Now, referring to the time that you were struck, were you struck before or after you rendered [68] this statement, Exhibit D for identification?

A. I wrote this after I was struck.

Q. How soon after you were struck?

A. Soon after I was struck.

Q. When you had written this statement, had you not been struck?

A. If I wasn't afraid of being beaten up again, I wouldn't have written that statement.

Q. And you never intended to profess any loyalty for Japan as against the United States, is that correct? A. No. I did not have.

Mr. Manes: No further questions.

(Testimony of Takeshi Tamada.)

Recross-Examination

By Mr. Grean:

Q. Did the man in the jeep that came to the office speak Japanese?

A. Oh, there was an interpreter with him.

Q. How many people were there, all together, in the jeep?

A. The soldier and the interpreter and myself.

Q. And did the soldier tell you what to state or did the interpreter tell you what to state?

A. The interpreter did.

Q. Now, you have testified with regard to Exhibit A and Exhibit D, that the Japanese was written entirely in your [69] own hand, is that correct?

A. Yes, I did write it.

Q. Now, were you struck before you signed and wrote out Exhibit A for identification?

A. I believe this had been signed before I was struck.

The Court: Referring to what?

Mr. Grean: Defendant's Exhibit A for identification.

Q. Now, when he asked you if you had not been a member of the Kempeitai, you testified that you told him that you had not been, is that true?

A. Yes, sir.

Q. And you also told him that you had not voted in 1947, '48, and '49, but you had only voted in 1946?

A. Yes, sir.

(Testimony of Takeshi Tamada.)

Q. And he said, "No. You have been a Kempeitai"? A. Yes, sir. He said that.

Q. And he said, "You have voted in 1947 in addition to 1946," didn't he say that?

A. Yes. He said that.

Q. And you denied that, and then he struck you, is that the truth? A. I believe so.

Mr. Grean: No further questions.

I offer in evidence Exhibits A and D.

The Court: They will be received. [70]

Mr. Manes: I object to them. I object to those for the same reason I did before, your Honor.

The Court: Objection overruled. They will be received.

(The documents referred to, marked Defendant's Exhibits A and D, respectively, were received in evidence.)

The Court: May I see Exhibit A?

Referring to Exhibit A in the Japanese writing, is that your handwriting? A. Yes, sir.

The Court: Did I understand you to testify a moment ago that you had been asked these questions in the jeep and then they had been written down and Exhibit A had been presented to you after you got out of the jeep? A. Yes, sir.

The Court: Is that what he wrote in the jeep?

A. He made me write what I stated in the jeep.

The Court: Did you write this in the jeep?

A. Not in the jeep.

The Court: As I understood your testimony, you

(Testimony of Takeshi Tamada.)

testified that he asked you all these questions in the jeep, that he wrote them down, and when you got out of the jeep he said, "Here they are," and had it all written down, is that correct?

A. He told me after we got off the jeep to put down everything what I have stated in the jeep and to sign it. [71]

The Court: He didn't write it down at all, is that it? A. No. I wrote them.

The Court: Who was present at the time you were struck?

A. There was a soldier and an interpreter.

The Court: Was that at the time you signed this document?

A. And the interpreter told me to put my fingerprint on a portion that was not correct.

The Court: Well, is that when you were struck, when you put your thumbprint on it?

A. They took the paper after I signed it and went back and read it and then I was struck.

The Court: All right. Do both sides rest?

Mr. Manes: I would like to ask one or two more questions, your Honor.

The Court: All right.

(Testimony of Takeshi Tamada.)

Redirect Examination

By Mr. Manes:

Q. Will you please tell us and tell the Court, if you can remember, why you told the American soldier that you were not a member of the Kempeitai?

A. I was afraid if I admitted I was a Kempeitai, I wouldn't be able to return to the United States.

And, of course, he told me when I got on the jeep that "Your application will be approved but there are a little [72] further statement we want to take from you."

Mr. Manes: I have no further questions, your Honor.

The Court: Any argument?

Mr. Grean: I have no argument, your Honor.

The Court: Any argument, Mr. Manes?

Mr. Manes: I would like to say one thing, your Honor, please.

I think here, your Honor, we have the question presented as presented last Tuesday in the Matsuye case, substantially the same issues. The only element involved that was different there is the question of these conflicting statements that were made in the various exhibits that were offered into evidence by defendant.

I think that we understand from our past experience the feeling that many of these Japanese-Americans had in those days, as to why they had the



(Testimony of Takeshi Tamada.)

intense desire, which this court has recognized in the past, to return to the United States. In many instances it has been so overwhelming that they have wanted to return and have lied to do so. It has been recognized in other courts and recognized here.

I think that the profession of loyalty for Japan, however, that was to be found in Exhibit D for identification, does not bear up under the evidence that has been offered prior to that time. And I think that, if the court will read it, it will see for itself that it is more like a [73] confession and you will see some of the reasons, because it is just unbelievable, when you read it, that a man voluntarily makes these statements, where his whole course of conduct has been different up to that point, having been used to brutality. I think it is difficult to understand the reason why he gave this particular statement and that, on January 13, 1950.

That is all I have.

The Court: It was rather difficult to follow him because he has lied so much. Of course he stands impeached now, and he frankly stated then that he had lied. He frankly states now that he told lies, and he frankly states that he told lies because he was afraid he might be deprived of his citizenship if he did not tell a lie.

Mr. Manes: Because he voted in 1947 and 1948, your Honor, and because he was a member of the Kempeitai. There weren't many Japanese-Americans there who did not know what the Kempeitai situation was. It isn't illogical to understand.



(Testimony of Takeshi Tamada.)

The Court: All I am referring to is the question of impeachment.

Mr. Manes: I understand, your Honor.

The Court: He has stated that he lied to save his citizenship.

Mr. Manes: That is right. [74]

The Court: Now, here he was sitting on the stand and, in so far as his case is concerned, it is dependent upon his credibility. He has stated that he lied to save his citizenship, and that is the thing, the question of his citizenship, that is in issue here.

The judgment will be for the defendant.

Counsel will prepare findings. [75] .

In the United States District Court, Southern  
District of California, Central Division

No. 10455-WB (D)-Civil

TAKESHI TAMADA,

Plaintiff,

vs.

JOHN FOSTER DULLES, Secretary of State,

Defendant.

Certificate

I hereby certify that I am a duly appointed, qualified and acting official court reporter of the United States District Court for the Southern District of California.

I further certify that the foregoing is a true and correct transcript of the proceedings had in the above-entitled cause on Friday, March 19, 1954, and that said transcript is a true and correct transcription of my stenographic notes.

Dated at Los Angeles, California, this 5th day of April, A.D. 1954.

/s/ THOMAS B. GOODWILL,  
Official Reporter.

[Endorsed]: Filed July 26, 1954. [76]

[Title of District Court and Cause.]

CERTIFICATE OF CLERK

I, Edmund L. Smith, Clerk of the United States District Court for the Southern District of California, do hereby certify that the foregoing pages contain the Complaint; Answer; Stipulation and Order for Substitution of Party Defendant; Minutes of the Court at Time of Trial; Findings of Fact and Conclusions of Law; Judgment; Notice of Appeal and Designation of Record on Appeal which, together with the original exhibits and reporter's transcript of proceedings on trial, transmitted herewith, constitute the transcript of record on appeal to the United States Court of Appeals for the Ninth Circuit.

I further certify that my fees for preparing and certifying the foregoing record amount to \$2.00 which sum has been paid to me by appellant.

Witness my hand and the seal of said District Court this 26th day of July, 1954.

[Seal]

EDMUND L. SMITH,  
Clerk.

By /s/ THEODORE HOCKE,  
Chief Deputy.

[Endorsed]: No. 14457. United States Court of Appeals for the Ninth Circuit. Takeshi Tamada, Appellant, vs. John Foster Dulles, as Secretary of State, Appellee. Transcript of Record. Appeal from the United States District Court for the Southern District of California, Central Division.

Filed July 27, 1954.

/s/ PAUL P. O'BRIEN,  
Clerk of the United States Court of Appeals for the  
Ninth Circuit.

In the United States Court of Appeals  
for the Ninth Circuit

No. 14457

TAKESHI TAMADA,

Plaintiff and Appellant,

vs.

JOHN FOSTER DULLES, as Secretary of State.

Defendant and Appellee.

STATEMENT OF POINTS UPON WHICH AP-  
PELLANT INTENDS TO RELY ON AP-  
PEAL

Pursuant to Rule 17(6) of this Court, appellant files the following as his statement of points on appeal:

1. The trial court erred in giving judgment for defendant;

2. The trial court erred in failing to adjudge that plaintiff is a national of the United States and did not lose that nationality by reason of his having served in the Japanese Army during World War II and by reason of his having voted in elections in Occupied Japan;

3. The trial court erred in admitting into evidence, over plaintiff's objections, defendant's Exhibits "A," "C" and "D";

4. The trial court's finding numbers XI, XV,

XVII, XVIII and XIX are not supported by the evidence;

5. The trial court erred in its conclusion numbers II, III, IV, V and VI.

WIRIN, RISSMAN & OKRAND,

By /s/ FRED OKRAND,

Attorneys for Plaintiff and  
Appellant.

Affidavit of Service by Mail attached.

[Endorsed]: Filed August 6, 1954.